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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,059	11/20/2001	Jason B. Brent	01CON263P	1465
25700	7590	09/20/2005	EXAMINER	
FARJAMI & FARJAMI LLP 26522 LA ALAMEDA AVENUE, SUITE 360 MISSION VIEJO, CA 92691			BLOUNT, STEVEN	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,059

Applicant(s)

BRENT ET AL.

Examiner

Steven Blount

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 3 - 5 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. patent 6,128,300 to Horton.

With regard to claim 1, Horton teaches client modem (col 3 line 38), linecard modem (col 3 lines 48 – 49), wherein said linecard modem interfaces with a digital network (see col 3 lines 68+, including col 4 line 5: “or other digital data network”).

With regard to claim 3, modulate/demodulate, see col 3 lines 65+.

With regard to claim 4, see col 3 lines 65 – 66 (linecard modem component of linecard).

With regard to claim 5, 64 kbps, see col 3 line 29.

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 – 7 and 15 - 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,128,300 to Horton.

With regard to claim 6, Horton teaches the invention as described above, but does not explicitly teach a data rate maximum of 128 kbps. The examiner notes that modems which operate at this data rate are well known in the art, and it would have been obvious to one of ordinary skill in the art to operate the linecard modem at this speed in light of this commonly known fact in order to provide data transfer at a high speed.

With regard to claim 7, connecting at a lower than maximum speed would be obvious in order to facilitate said connection.

With regard to claims 15 - 16, see the rejection of claim 1 above, and additionally note that an off-hook indicator is mentioned in col 5 lines 5+. Note that although the processes of detecting said local loop to be in an off-hook state, transmitting a dial tone, and transmitting a linecard indication, in combination is not explicitly taught in Horton, it would have been obvious to one of ordinary skill in the art to carry out these steps in light of the teachings of col 5 lines 1 – 10.

With regard to claims 17 – 23, see the rejections above.

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With regard to claim 24, see the mention of DTMF in col 5 lines 5+ and note that tones above 4 khz are commonly used for signaling.

5. Claims 2 and 8 - 14 are rejected under 35 U.S.C. 103(a) as being unpatentable U.S. patent 6,128,300 to Horton in view of the Applicants Admitted Prior Art (AAPA).

With regard to claim 2, Horton teaches the invention as described above, but does not teach having the linecard be capable of generating digitized analog samples of linear/uniform spacing. AAPA teaches generating A/U digitized analog signals (see page 2 lines 24+), wherein having them be of linear/uniform would be an obvious form.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have generated digitized analog samples of linear/uniform spacing in Horton, in light of the teachings of AAPA, in order that the signals be of reproducible quality.

With regard to claim 8, see the rejection of claim 2 above.

With regard to claims 9 – 13, again see the rejections above.

With regard to claim 14, page 2 lines 13+ of AAPA discusses modems of these types.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Blount whose telephone number is 571 - 272 - 3071. The examiner can normally be reached on M-F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Chau Nguyen, can be reached on 571 – 272 - 3126. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ajit Patel
Primary Examiner

SB

9/16/05